

# United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Philip G. Reinhard	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	00 C 50022	DATE	3/31/2003
CASE TITLE	Thomas, et al. vs. Honeywell Corp.		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

## MOTION:

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## DOCKET ENTRY:

- (1) ☐ Filed motion of [ use listing in "Motion" box above.]
- (2) ☐ Brief in support of motion due \_\_\_\_.
- (3) ☐ Answer brief to motion due \_\_\_\_\_. Reply to answer brief due \_\_\_\_\_.
- (4) ☐ Ruling/Hearing on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.
- (5) ☐ Status hearing[held/continued to] [set for/re-set for] on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.
- (6) ☐ Pretrial conference[held/continued to] [set for/re-set for] on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.
- (7) ☐ Trial[set for/re-set for] on \_\_\_\_\_ at \_\_\_\_\_.
- (8) ☐ [Bench/Jury trial] [Hearing] held/continued to \_\_\_\_\_ at \_\_\_\_\_.
- (9) ☐ This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]  
☐ FRCP4(m) ☐ General Rule 21 ☐ FRCP41(a)(1) ☐ FRCP41(a)(2).
- (10) ☒ [Other docket entry] For the reasons stated on the reverse Memorandum Opinion and Order, defendant's motion for summary judgment is granted as to the claims of plaintiff, Turner. Turner's claims against defendant are dismissed in their entirety with prejudice.

- (11) ☒ [For further detail see order on the reverse side of the original minute order.]

<input type="checkbox"/> No notices required, advised in open court. <input type="checkbox"/> No notices required. <input checked="" type="checkbox"/> Notices mailed by judge's staff. <input type="checkbox"/> Notified counsel by telephone. <input type="checkbox"/> Docketing to mail notices. <input checked="" type="checkbox"/> Mail AO 450 form. <input checked="" type="checkbox"/> Copy to judge/magistrate judge.	courtroom deputy's initials	U.S. DISTRICT COURT CLERK 03 MAR 31 PM 2:05 FILED-WD	number of notices	Document Number  115
			MAR 31 2003 date docketed	
			3-31-03 docketing deputy initials	
			3-31-03 date mailed notice	
			mailing deputy initials	
/SEC		Date/time received in central Clerk's Office		

## MEMORANDUM OPINION AND ORDER

Plaintiffs, Anne Thomas, Victoria Robinson, Dorothy Turner and George Benson<sup>1</sup>, all African-Americans, filed suit against defendant, Honeywell Corp., their employer, in state court alleging violation of 42 U.S.C. § 2000 et seq. ("Title VII") and 42 U.S.C. § 1981 ("Section 1981"). Defendant removed the action to this court pursuant to 28 U.S.C. § 1441. Jurisdiction is proper under 42 U.S.C. § 2000e-5 (f) (3) and 28 U.S.C. § 1331. Defendant has separately moved for summary judgment against each defendant. This order deals with the claims of Dorothy Turner.<sup>2</sup> Plaintiff claims disparate treatment based on race in promotion and overtime, retaliation for filing OFCCP and EEOC charges, and a racially hostile work environment.

Summary judgment is appropriate when the "pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue of material fact and that the moving party is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(c). Plaintiff must present evidence sufficient to establish the existence of the elements essential to her case on all matters upon which she bears the burden of proof at trial to avoid summary judgment. See Celotex Corp. v. Catrett, 477 U.S. 317, 322-23 (1986); Boyce v. Moore, 314 F.3d 884, 889 (7<sup>th</sup> Cir. 2002). Plaintiff has not presented evidence pursuant to Local Rule 56.1 sufficient to defeat summary judgment.

To establish a Title VII prima facie case for failure to promote "plaintiff must show that 1) she belongs to a protected class, 2) she applied for and was qualified for the position sought, 3) she was rejected for that position and 4) the employer granted the promotion to someone outside of the protected group who was not better qualified than the plaintiff." Grayson v. City of Chicago, 317 F.3d 745, 748 (7<sup>th</sup> Cir. 2003).<sup>3</sup> Plaintiff does not present any evidence at all in her LR 56.1 (b) statement in support of disparate treatment in promotion. She states in her brief that she applied for and was qualified for an FN5 position, but there is no reference to facts in the record supporting this claim. As to her denial of overtime claim, her LR 56.1 (b) contains two paragraphs (¶¶ 4-5) in which she states without citation to the record that no African-American employee who was regularly assigned to Department 280 was offered inter-departmental overtime in departments supervised by Charmaine Munz or Yvonne Hayes. However, she cites to no evidence to support this claim. She presents no evidence that similarly situated employees who were not in the protected class received treatment different from plaintiff, an essential element of the claim. See Traylor v. Brown, 295 F.3d 783, 788 (7<sup>th</sup> Cir. 2002) (Title VII); Vakharia v. Swedish Covenant Hosp., 190 F.3d 799, 806 (7<sup>th</sup> Cir. 1999) (Section 1981), cert. denied, 530 U.S. 1204 (2000) (similarly situated employees being treated differently is an essential element of Section 1981 or Title VII disparate treatment claim.) She presents no evidence she was actually denied overtime. Similarly, she presents no evidence of retaliation or hostile work environment.

Because plaintiff has failed to present evidence pursuant to LR 56.1 which support her claims, she has failed to establish the existence of the elements essential to her case on all matters upon which she bears the burden of proof at trial to avoid summary judgment. See Celotex Corp., 477 U.S. at 322-23; Boyce, 314 F.3d at 889. Defendant's motion for summary judgment is granted. Turner's claims against defendant are dismissed in their entirety with prejudice.

<sup>1</sup> Clarence Ellis was also a plaintiff whose case has been settled and dismissed.

<sup>2</sup> Turner will be referred to as "plaintiff" hereinafter.

<sup>3</sup> The same analysis applies to plaintiff's Section 1981 claim. Vakharia v. Swedish Covenant Hosp., 190 F.3d 799, 806 (7<sup>th</sup> Cir. 1999) (Section 1981), cert. denied, 530 U.S. 1204 (2000).